

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

NATIONAL PASTEURIZED EGGS, INC.,  
and NATIONAL PASTEURIZED EGGS, LLC,

Plaintiffs,

v.

MICHAEL FOODS, INC., ABBOTSFORD FARMS, INC.,  
CRYSTAL FARMS REFRIGERATED DISTRIBUTION  
COMPANY, and M.G. WALDBAUM COMPANY,

Defendants,

and

MICHAEL FOODS, INC.,

Plaintiff,

v.

NATIONAL PASTEURIZED EGGS, INC.,

Defendant.

AMENDED JUDGMENT

Case No. 10-cv-646-wmc

Case No. 11-cv-534-wmc

---

This matter came before the court and a jury with District Judge William M. Conley presiding. The issues have been tried and the jury has rendered its verdict.

---

The parties having withdrawn equitable claims not mooted by the jury's verdict, IT IS ORDERED AND ADJUDGED that judgment is entered:

in favor of defendants Michael Foods, Inc., Abbotsford Farms, Inc., Crystal Farms Refrigerated Distribution Company and M.G. Waldbaum Company and against plaintiffs National Pasteurized Eggs, Inc. and National Pasteurized Eggs, LLC granting summary judgment and dismissing with prejudice (1) plaintiffs' claims of infringement of all asserted claims of U.S. Patent No. 5,916,617; (2) plaintiffs' claims of infringement of claim 9 of U.S. Patent No. 6,113,961 (the "'961 patent") and all asserted claims dependent on claim 9 of the '961 patent; and (3) dismissing plaintiffs' trademark and unfair competition claims.

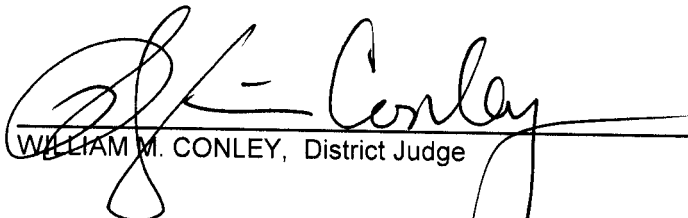
IT IS FURTHER ORDERED AND ADJUDGED that judgment is entered in favor of plaintiffs National Pasteurized Eggs, Inc. and National Pasteurized Eggs, LLC, finding infringement by defendants

Michael Foods, Inc., Abbotsford Farms, Inc., Crystal Farms Refrigerated Distribution Company and M.G. Waldbaum Company of claims 2 and 3 of U.S. Patent No. 6,165,538, claim 1 of U.S. Patent No. 6,632,464, and claims 5 and 8 of the '961 patent and awarding damages to National Pasteurized Eggs, Inc. in the amount of \$5,841,646.00 together with prejudgment interest in the amount of \$157,391.00, for a total damages award of \$5,999,037.00.

IT IS FURTHER ORDERED AND ADJUDGED that judgment is entered:

(1) declaring that claims 1, 2, 4 and 5 of U.S. Patent No. 6,004,063, claim 4 of U.S. Patent No. 6,303,176, and claim 4 of U.S. Patent No. 6,974,599 are invalid; (2) directing the PTO to cancel U.S. Trademark Registration No. 3,487,479 for the Circle P mark; (3) declaring that National's Application Serial No. 85/157,725 of the unregistered Red Circle P mark is generic and invalid; and (4) permanently enjoining defendants Michael Foods, Inc., Abbotsford Farms, Inc., Crystal Farms Refrigerated Distribution Company and M.G. Waldbaum Company from using, making or selling eggs pasteurized according to the process adopted on or about April 1, 2010.

Approved as to form this 17<sup>th</sup> day of April, 2013.

  
WILLIAM M. CONLEY, District Judge

  
Peter Oppeneer, Clerk of Court

4/19/13  
Date